

Federal Court



Cour fédérale

**Date: 20240510**

**Docket: IMM-3832-22  
IMM-3211-22  
IMM-3730-22**

**Citation: 2024 FC 725**

[ENGLISH TRANSLATION]  
Ottawa, Ontario, May 10, 2024

**PRESENT: Madam Justice Azmudeh**

**BETWEEN:**

**HERTZIEN LEIRIS NDJABA NGOTTY**

**Applicant**

**and**

**THE MINISTER OF PUBLIC SAFETY AND  
EMERGENCY PREPAREDNESS**

**Respondent**

**JUDGMENT AND REASONS**

I. Introduction

[1] Hertzien Leiris Ndjaba Ngotty [the applicant] is seeking judicial review of the following three cases under subsection 72(1) of the *Immigration and Refugee Protection Act* [IRPA]:

**IMM-3211-22**

- Judicial review of the April 2, 2022, decision (exclusion order) made by the Canada Border Services Agency (CBSA) in accordance with subsection 29(2) of the IRPA

**IMM-3730-22**

- Judicial review of the CBSA's decision to postpone an examination by scheduling a port-of-entry appointment on April 2, 2022, at 10:00 a.m., rather than continuing the examination on March 30, 2022

**IMM-3832-22**

- Judicial review of a report under subsection 44(1) the IRPA issued by the Minister's delegate following an interview at the St-Bernard-de-Lacolle port of entry on April 2, 2022

[2] In accordance with a previous order from this Court, I heard the judicial review of all three cases together.

[3] The judicial review is dismissed for the following reasons.

II. Overview

[4] The applicant is a citizen of Cameroon. On August 26, 2019, he was granted a study permit and a co-op work permit for the software engineering program at Bois-de-Boulogne College in Quebec.

[5] The applicant arrived in Canada on September 4, 2019. Since the semester had already started, he judged that he would not be able to catch up, and quit the program.

[6] On October 28, 2019, the applicant was admitted into the computer network management program at CDI College. He later obtained a new Quebec acceptance certificate (CAQ).

[7] The applicant alleges that he subsequently studied full-time, but the facts on the record do not show when the applicant stopped studying full-time and when he started working.

[8] On January 8, 2021, CDI College suspended the applicant. A representative of the college explained that the applicant was suspended because he was working and not attending his classes full-time. The applicant alleges rather that he was suspended because he did not pay his tuition fees, but he does not have evidence to show that he was attending his classes full-time.

[9] Since his access to online courses was not blocked, the applicant continued with the semester despite being suspended.

[10] On April 19, 2021, the applicant accepted a full-time job at Pro Amino International Inc., where he had worked previously as a temporary worker.

[11] In the summer of 2021, the applicant was admitted for the fall semester, subject to his getting a new CAQ, his current one having expired. However, his application for a CAQ was rejected on October 15, 2021, and he was only granted a CAQ on December 30, 2021, after reapplying.

[12] Since he did not have a CAQ in the fall of 2021 and therefore could not go to school, the applicant carried on working full-time while his application was being processed.

[13] The applicant alleges that he re-enrolled at CDI College on January 12, 2022. He alleges that, despite his having been suspended since January 2021 and failing to study full-time, all he had left to do was an internship.

[14] He started looking for an internship in January 2022. On March 8, 2022, he left his job at Pro Amino, and on March 17, 2022, he was offered an internship starting on April 4, 2022.

**Co-op work permit application at port of entry**

[15] On March 28, 2022, the applicant was informed that his co-op work permit did not allow him to do the internship as part of the computer network management program. The applicant alleges that Mr. Zouaoui, of the college's international students office, had suggested that he go to the border given that an online application could take four weeks.

[16] The applicant did not tell Mr. Zouaoui that he had interrupted his studies for a year and worked full-time. He submits that Mr. Zouaoui should have known this. Given the processing time of online applications, the applicant decided to go to the border to apply for a work permit.

[17] On March 30, 2022, the applicant went to the Lacolle port of entry.

**Interview with Officer Cyr and postponement of examination**

[18] On March 30, 2022, Officer Cyr of the CBSA noted that the applicant's program of study was 20 months long and that there was no evidence that it would exceed 20 months. The applicant stated that he had interrupted his studies from June 2021 to January 2022 and had been working. He did not have any payslips to demonstrate that he had complied with the conditions of his study permit.

[19] The officer told the applicant that she could see a record of employment for him for 2021. She asked him whether he had worked over 20 hours a week. The applicant asked to withdraw his application, apparently referring to his application for a work permit, but the officer refused.

[20] The officer suggested that the applicant come back the following day or on April 2, 2022, with his course schedule, payslips, employment agreement and resignation letter, and documents showing that his study program was longer than 20 months, so that she could complete her examination. The officer also took his employer's and the college's contact information.

[21] The applicant alleges that he explained to the officer that he did not have a car and would have to arrange to come back with other members of his family. He alleges that the officer told him to come back before the end of the day on April 2. In any event, the applicant signed an Entry for Further Examination form, stating that he would come back on April 2, 2022, at 10:00 a.m. and that he understood the conditions of his entry to Canada:

- The following conditions are imposed on your entry: You are required to report for further examination or your admissibility hearing as specified below.

- ...

- You must report in person to an officer at a port of entry if you withdraw your application to enter Canada.

- ...

- **NOTE:** This authorization to enter Canada does not confer status. Failure to comply with the above conditions may lead to the issuance of a warrant for your arrest and the making of a removal order against you.

- I have read and understand the contents of this form. I accept and will comply with the conditions imposed.

[22] The applicant alleges that he arrived at the border in the evening of April 2, after Officer Cyr, who had already prepared an inadmissibility report under section 44 of the IRPA, had left. He made a first attempt to indicate that he would be late, but did not make another one after returning to get his passport when he realized halfway to the border that he had forgotten it.

[23] The applicant is seeking judicial review of the section 44 report, the exclusion order and the circumstances surrounding the postponement of the interview from March 30 to April 2.

### III. Standard of review

[24] The following is a summary of the questions before me:

- a) Were the CBSA's decisions to issue a section 44 report and an exclusion order reasonable?
- b) Did the officer and the Minister's delegate respect procedural fairness throughout the decision-making process?

[25] The parties submit, and I agree, that the standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 [Vavilov]).

[26] To be reasonable, a decision must be “based on an internally coherent and rational chain of analysis” and be “justified in relation to the facts and law that constrain the decision maker” (Vavilov at para 85). The reviewing court must ensure that the decision is justified, intelligible and transparent (Vavilov at para 95). Justified and transparent decisions account for the central issues and concerns raised in the parties’ submissions to the decision maker (Vavilov at para 127).

[27] In terms of procedural fairness, if such a question arises on an application for judicial review, the Court determines whether the procedure used by the decision maker was fair, having regard to all of the circumstances including the nature of the substantive rights involved and the consequences for the individual(s) affected. The issue of procedural fairness is to be reviewed on the correctness standard (*Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 [Canadian Pacific Railway Company] at paras 37–56; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35). The central question for issues of procedural fairness is whether the procedure was fair having regard to all of the circumstances, including the factors enumerated in *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817, 1999 CanLII 699 (SCC) at paras 21–28, *Canadian Pacific Railway*

*Company* at para 54, and *Sangha v Canada (Citizenship and Immigration)*, 2023 FC 1530 at para 9.

IV. Analysis

A. *Legal framework*

[28] For ease of reading, the relevant excerpts from the legislation cited in this decision can be found in Appendix A.

[29] Under subsection 11(1) of the IRPA, an immigration officer has the discretion to issue a visa to a foreign national who is not inadmissible and meets the requirements of this act.

[30] The student class is a class of temporary residents, as provided for by section 210 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR].

[31] Temporary residents must comply with the conditions imposed under the IRPA and the IRPR, and failure to comply can lead to inadmissibility (s 29(2) IRPA).

[32] In accordance with subsection 220.1(1) of the IRPR, temporary residents with a study permit are required to actively pursue their program of study.

[33] An officer may authorize a foreign national to enter Canada for the purpose of further examination so that the foreign national can leave the port of entry and report back later with any



requested documents, among other things (see, for example, s 23(1) of the IRPA and *Gursimran v Canada (Citizenship and Immigration)*, 2019 FC 1260 [*Gursimran*]).

[34] Such an authorization to enter Canada is subject to the conditions imposed under the RIPR, which include the foreign national having to report at the time and place specified for the completion of the examination and having to report to a port of entry if the foreign national withdraws their application to enter Canada (s 43(1) IRPR).

[35] Inadmissibility reports may be issued against temporary residents who have failed to actively pursue their studies and to comply with the conditions of their stay (*Gursimran* at paras 5, 9 and 17–20).

[36] If a temporary resident does not study, fails or stops studying for several semesters, one can only conclude that the temporary resident did not comply with the conditions of the study permit. This justifies an inadmissibility report and an exclusion order (*Gursimran* at paras 5, 9 and 17–20; *El Kamel v Canada (Public Safety and Emergency Preparedness)*, 2018 FC 730 at paras 13–14; *Kone v Canada (Immigration, Refugees and Citizenship)*, 2018 FC 845 at paras 8–11 and 59).

B. *Issue: Were the CBSA's decisions reasonable?*

[37] The applicant admitted that when he reported to the border on March 30, he had not been complying with the conditions of his visa. This is because he had interrupted his studies. He also

admitted that he had been working full-time. Again he claims that he interrupted his studies and worked full-time out of financial need.

[38] Regardless of the reasons that might explain why he interrupted his studies or worked full-time, the applicant unquestionably failed to comply with the conditions of his study permit. These included the requirements to pursue his studies and not to work more than 20 hours a week.

[39] The officer and the Minister's delegate performed diligent investigations and based their decisions on the undisputed evidence that the applicant, a temporary resident, did not comply with the conditions imposed under the IRPR, contrary to subsection 29(2) of the IRPA. An exclusion order was therefore made against the applicant, in accordance with section 228 of the IRPR.

[40] The decision to prepare a section 44 report and an exclusion report was based on undisputed evidence that the conditions of the applicant's study permit were violated and on the legal consequences arising from this. The officer's and the Minister's delegate reasons reflect a clear chain of reasoning. Their decisions were therefore reasonable.

C. *Procedural fairness: were the decisions made in a procedurally fair manner?*

[41] The applicant focused exclusively on the breach of procedural fairness in this judicial review. He relied on the following factors:

- (a) The incompetence of CDI College's lawyer, who advised the applicant to go to the port of entry rather than to apply online;
- (b) The officer's failure to postpone the continuation of the examination and requiring him to appear on April 2; and
- (c) The fact that the officer did not allow the applicant to withdraw his application.

**(1) Incompetence of CDI College's lawyer**

[42] The applicant informed CDI College that he would be raising the incompetence of the lawyer who had advised him to go to the port of entry rather than to apply online. At the judicial review hearing, I asked the applicant to explain how this advice resulted in a breach of procedural fairness or, in other words, why an online application would likely have led to a different outcome. Counsel for the applicant did not explain how the port-of-entry application harmed the applicant. Instead she said that this was a policy argument.

[43] I do not find this argument to be sufficient to undermine the officer's decision, nor does it support the allegation that the decision affected the impartiality of the officer or the Minister's delegate.

**(2) The officer's failure to postpone the continuation of the examination and requiring him to appear on April 2; and**

[44] The applicant admitted in the March 30 interview that he was not actively pursuing his studies and that he was working full-time without permission. It was open to the officer to process his application immediately or to give him an opportunity to provide additional

documents, such as a payslip, to establish how many hours he had worked. The officer chose to give him another chance and compelled him to return a few days later, on April 2. Even though the applicant indicated that it was difficult for him to come back because he had no transportation, he signed an agreement to do so at 10:00 a.m. He acknowledged that an arrest warrant would be issued if he did not appear.

[45] I find that the officer's decision to give him an opportunity to be re-examined is fair. I also find that the events of April 2 were fair.

[46] The applicant failed to report for his appointment on April 2, at 10:00 a.m., and failed to call to provide an explanation. It was the officer who called his sister at 1:15 p.m. because the applicant's contact information was his Cameroonian contact information. The officer told her that an arrest warrant could be issued against the applicant and that he had one hour to rectify the situation and to report for his appointment.

[47] The applicant called the port of entry at 2:30 p.m. and talked to Officer Wallace, the Minister's delegate. He told Officer Wallace that he was unable to come. The officer explained to him that this would result in an inadmissibility decision and his arrest. He gave the applicant until 4:00 p.m. to appear.

[48] At 4:30 p.m., the applicant had still not arrived. The applicant explained later that, after he had set out, he realized that he had forgotten his passport and had to go back home to collect it. But he did not call the officers to tell them he would be late. At 5:30 p.m., with no sign of, or

news from, the applicant, who had been given several chances to appear, Officer Wallace decided, in accordance with section 41 of the IRPA, to find the applicant inadmissible for non-compliance.

[49] The applicant arrived at the port of entry at 6:20 p.m. and told the Minister's delegate, Officer Wallace, that he was late because he did not have any means of transportation and that his brother-in-law had driven him. The Minister's delegate then went to ask the brother-in-law when the applicant had asked him to drive him, and he replied that it had been at 2:00 p.m. that same day. The Minister's delegate examined the documents before him and made the independent decision that the applicant had indeed failed to appear for further examination; he also confirmed the exclusion order under subparagraph 228(1)(c)(i) of the IRPR.

[50] The applicant also argued that he had requested a legal opinion the day after his first interview and that his lawyer had told him to apply online. He applied online, and his lawyer told him that since he had applied online, the requirement that he report for the April 2 examination at the port of entry was cancelled. At no point did the applicant disclose this opinion to the officer or the Minister's delegate, who repeatedly tried to reach him and to find out why he had not appeared as required.

[51] I find that the officer and the Minister's delegate acted diligently and fairly. In fact, they went beyond the call of duty by not issuing an exclusion order and arrest warrant as soon as it turned 10:00 a.m. They gave the applicant multiple opportunities to appear and to explain himself, and attempted to confirm his explanations. They made a reasonable decision after giving

the applicant every opportunity to explain himself. Therefore, they did not breach any rules of procedural fairness.

**(3) Officer's not allowing applicant to withdraw application**

[52] The applicant also argued that the officer breached procedural fairness by refusing to allow him to withdraw his application on March 30.

[53] The applicant presented himself to the officer as a foreign national who admitted that he had failed to comply with his visa conditions. If the officer had agreed to the application being withdrawn, he would have had to ask the applicant to leave Canada under section 42 of the

IRPR:

**Withdrawing application**

**42 (1)** Subject to subsection (2), an officer who examines a foreign national who is seeking to enter Canada and who has indicated that they want to withdraw their application to enter Canada shall allow the foreign national to withdraw their application and leave Canada.

**Exception — report**

(2) If a report is being prepared or has been prepared under subsection 44(1) of the Act in respect of a foreign national who indicates that they want to withdraw their application to enter Canada, the officer shall not allow the foreign national to withdraw their application or leave Canada unless the Minister decides either not to make a removal order or not to refer the report to the Immigration Division for an admissibility hearing.

**Obligation to confirm departure**

(3) A foreign national who is allowed to withdraw their application to enter Canada must appear without delay before an officer at

**Retrait de la demande**

42 (1) Sous réserve du paragraphe (2), l'agent qui effectue le contrôle d'un étranger cherchant à entrer au Canada et à qui ce dernier fait savoir qu'il désire retirer sa demande d'entrée lui permet de la retirer et de quitter le Canada.

**Exception — rapport**

(2) Si un rapport est en cours d'établissement ou a été établi en application du paragraphe 44(1) de la Loi à l'égard de l'étranger qui fait savoir qu'il désire retirer sa demande d'entrée au Canada, l'agent ne lui permet ni de la retirer ni de quitter le Canada, sauf si le ministre décide de ne pas prendre de mesure de renvoi ou de ne pas déférer l'affaire à la Section de l'immigration pour enquête.

**Obligation de confirmer son départ**

(3) L'étranger auquel la permission de retirer sa demande d'entrée au Canada a été accordée doit comparaître sans délai devant un agent à

a port of entry to confirm their departure from Canada. un point d'entrée pour confirmer son départ du Canada.

[54] I therefore find that the officer's decision not to allow the withdrawal of the application and to postpone the examination to a later date while readmitting the applicant to Canada was procedurally fair and correct.

V. Conclusions

(a) The judicial review is dismissed.

(b) Neither party has proposed a question for certification, and I agree that none arises in this case.

## APPENDIX A

*Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]***Entry to complete examination or hearing**

**23** An officer may authorize a person to enter Canada for the purpose of further examination or an admissibility hearing under this Part.

**Right of temporary residents**

**29 (1)** A temporary resident is, subject to the other provisions of this Act, authorized to enter and remain in Canada on a temporary basis as a visitor or as a holder of a temporary resident permit.

**Obligation — temporary resident**

**(2)** A temporary resident must comply with any conditions imposed under the regulations and with any requirements under this Act, must leave Canada by the end of the period authorized for their stay and may re-enter Canada only if their authorization provides for re-entry.

...

**Non-compliance with Act**

**41** A person is inadmissible for failing to comply with this Act

**(a)** in the case of a foreign national, through an act or omission which contravenes, directly or indirectly, a provision of this Act; and

**(b)** in the case of a permanent resident, through failing to comply with subsection 27(2) or section 28.

**Preparation of report**

**44 (1)** An officer who is of the opinion that a permanent resident or a foreign national who is in Canada is inadmissible may prepare a report setting out the relevant facts, which report shall be transmitted to the Minister.

**Referral or removal order**

**(2)** If the Minister is of the opinion that the report is well-founded, the Minister may refer the report to the Immigration Division for an

**Contrôle complémentaire ou enquête**

**23** L'entrée peut aussi être autorisée en vue du contrôle complémentaire ou de l'enquête prévus par la présente partie.

**Droit du résident temporaire**

**29 (1)** Le résident temporaire a, sous réserve des autres dispositions de la présente loi, l'autorisation d'entrer au Canada et d'y séjourner à titre temporaire comme visiteur ou titulaire d'un permis de séjour temporaire.

**Obligation du résident temporaire**

**(2)** Le résident temporaire est assujéti aux conditions imposées par les règlements et doit se conformer à la présente loi et avoir quitté le pays à la fin de la période de séjour autorisée. Il ne peut y rentrer que si l'autorisation le prévoit.

...

**Manquement à la loi**

**41** S'agissant de l'étranger, emportent interdiction de territoire pour manquement à la présente loi tout fait — acte ou omission — commis directement ou indirectement en contravention avec la présente loi et, s'agissant du résident permanent, le manquement à l'obligation de résidence et aux conditions imposées.

**Rapport d'interdiction de territoire**

**44 (1)** S'il estime que le résident permanent ou l'étranger qui se trouve au Canada est interdit de territoire, l'agent peut établir un rapport circonstancié, qu'il transmet au ministre.

**Suivi**

**(2)** S'il estime le rapport bien fondé, le ministre peut déférer l'affaire à la Section de l'immigration pour enquête, sauf s'il s'agit d'un



admissibility hearing, except in the case of a permanent resident who is inadmissible solely on the grounds that they have failed to comply with the residency obligation under section 28 and except, in the circumstances prescribed by the regulations, in the case of a foreign national. In those cases, the Minister may make a removal order.

### **Conditions**

(3) An officer or the Immigration Division may impose any conditions, including the payment of a deposit or the posting of a guarantee for compliance with the conditions, that the officer or the Division considers necessary on a permanent resident or a foreign national who is the subject of a report, an admissibility hearing or, being in Canada, a removal order.

### **Conditions — inadmissibility on grounds of security**

(4) If a report on inadmissibility on grounds of security is referred to the Immigration Division and the permanent resident or the foreign national who is the subject of the report is not detained, an officer shall also impose the prescribed conditions on the person.

### **Duration of conditions**

(5) The prescribed conditions imposed under subsection (4) cease to apply only when

- (a) the person is detained;
- (b) the report on inadmissibility on grounds of security is withdrawn;
- (c) a final determination is made not to make a removal order against the person for inadmissibility on grounds of security;
- (d) the Minister makes a declaration under subsection 42.1(1) or (2) in relation to the person; or
- (e) a removal order is enforced against the person in accordance with the regulations.

résident permanent interdit de territoire pour le seul motif qu'il n'a pas respecté l'obligation de résidence ou, dans les circonstances visées par les règlements, d'un étranger; il peut alors prendre une mesure de renvoi.

### **Conditions**

(3) L'agent ou la Section de l'immigration peut imposer les conditions qu'il estime nécessaires, notamment la remise d'une garantie d'exécution, au résident permanent ou à l'étranger qui fait l'objet d'un rapport ou d'une enquête ou, étant au Canada, d'une mesure de renvoi.

### **Conditions — interdiction de territoire pour raison de sécurité**

(4) Si l'affaire relative à un rapport d'interdiction de territoire pour raison de sécurité est déférée à la Section de l'immigration et que le résident permanent ou l'étranger qui fait l'objet du rapport n'est pas détenu, l'agent impose également à celui-ci les conditions réglementaires.

### **Durée des conditions**

(5) Les conditions réglementaires imposées en vertu du paragraphe (4) ne cessent de s'appliquer que lorsque survient l'un ou l'autre des événements suivants :

- a) la détention de l'intéressé;
- b) le retrait du rapport d'interdiction de territoire pour raison de sécurité;
- c) la décision, en dernier ressort, selon laquelle n'est prise contre l'intéressé aucune mesure de renvoi pour interdiction de territoire pour raison de sécurité;
- d) la déclaration du ministre faite à l'égard de l'intéressé en vertu des paragraphes 42.1(1) ou (2);
- e) l'exécution de la mesure de renvoi visant l'intéressé conformément aux règlements.

*Immigration and Refugee Protection Regulations, SOR/2002-227 [IRPR]***Withdrawing application**

**42 (1)** Subject to subsection (2), an officer who examines a foreign national who is seeking to enter Canada and who has indicated that they want to withdraw their application to enter Canada shall allow the foreign national to withdraw their application and leave Canada.

**Exception — report**

**(2)** If a report is being prepared or has been prepared under subsection 44(1) of the Act in respect of a foreign national who indicates that they want to withdraw their application to enter Canada, the officer shall not allow the foreign national to withdraw their application or leave Canada unless the Minister decides either not to make a removal order or not to refer the report to the Immigration Division for an admissibility hearing.

**Obligation to confirm departure**

**(3)** A foreign national who is allowed to withdraw their application to enter Canada must appear without delay before an officer at a port of entry to confirm their departure from Canada.

**No permit required**

**186** A foreign national may work in Canada without a work permit

...

- (v) if they are the holder of a study permit and
  - (i) they are a full-time student enrolled at a designated learning institution as defined in section 211.1,
  - (ii) the program in which they are enrolled is a post-secondary academic, vocational or professional training program, or a vocational training program at the secondary level offered in Quebec, in each case, of a duration of six months or more that leads to a degree, diploma or certificate, and
  - (iii) although they are permitted to engage in full-time work during a regularly scheduled break between academic sessions, they work no

**Retrait de la demande**

**42 (1)** Sous réserve du paragraphe (2), l'agent qui effectue le contrôle d'un étranger cherchant à entrer au Canada et à qui ce dernier fait savoir qu'il désire retirer sa demande d'entrée lui permet de la retirer et de quitter le Canada.

**Exception — rapport**

**(2)** Si un rapport est en cours d'établissement ou a été établi en application du paragraphe 44(1) de la Loi à l'égard de l'étranger qui fait savoir qu'il désire retirer sa demande d'entrée au Canada, l'agent ne lui permet ni de la retirer ni de quitter le Canada, sauf si le ministre décide de ne pas prendre de mesure de renvoi ou de ne pas déférer l'affaire à la Section de l'immigration pour enquête.

**Obligation de confirmer son départ**

**(3)** L'étranger auquel la permission de retirer sa demande d'entrée au Canada a été accordée doit comparaître sans délai devant un agent à un point d'entrée pour confirmer son départ du Canada.

**Permis non exigé**

**186** L'étranger peut travailler au Canada sans permis de travail :

...

- v) s'il est titulaire d'un permis d'études et si, à la fois :
  - (i) il est un étudiant à temps plein inscrit dans un établissement d'enseignement désigné au sens de l'article 211.1,
  - (ii) il est inscrit à un programme postsecondaire de formation générale, théorique ou professionnelle ou à un programme de formation professionnelle de niveau secondaire offert dans la province de Québec, chacun d'une durée d'au moins six mois, menant à un diplôme ou à un certificat,
  - (iii) il travaille au plus vingt heures par semaine au cours d'un semestre régulier de cours, bien

more than 20 hours per week during a regular academic session;

...

**Class**

**210** The student class is prescribed as a class of persons who may become temporary residents.

**Conditions — study permit holder**

**220.1 (1)** The holder of a study permit in Canada is subject to the following conditions:

(a) they shall enroll at a designated learning institution and remain enrolled at a designated learning institution until they complete their studies; and

(b) they shall actively pursue their course or program of study.

...

**Subsection 44(2) of the Act — foreign nationals**

**228 (1)** For the purposes of subsection 44(2) of the Act, and subject to subsections (3) and (4), if a report in respect of a foreign national does not include any grounds of inadmissibility other than those set out in the following circumstances, the report shall not be referred to the Immigration Division and any removal order made shall be

...

(c) if the foreign national is inadmissible under section 41 of the Act on grounds of

(i) failing to appear for further examination or an admissibility hearing under Part 1 of the Act, an exclusion order,

...

qu'il puisse travailler à temps plein pendant les congés scolaires prévus au calendrier;

...

**Catégorie**

**210** La catégorie des étudiants est une catégorie réglementaire de personnes qui peuvent devenir résidents temporaires.

**Conditions — titulaire du permis d'études**

**220.1 (1)** Le titulaire d'un permis d'études au Canada est assujéti aux conditions suivantes :

a) il est inscrit dans un établissement d'enseignement désigné et demeure inscrit dans un tel établissement jusqu'à ce qu'il termine ses études;

b) il suit activement un cours ou son programme d'études.

...

**Application du paragraphe 44(2) de la Loi : étrangers**

**228 (1)** Pour l'application du paragraphe 44(2) de la Loi, mais sous réserve des paragraphes (3) et (4), dans le cas où elle ne comporte pas de motif d'interdiction de territoire autre que ceux prévus dans l'une des circonstances ci-après, l'affaire n'est pas déférée à la Section de l'immigration et la mesure de renvoi à prendre est celle indiquée en regard du motif en cause :

...

c) en cas d'interdiction de territoire de l'étranger au titre de l'article 41 de la Loi pour manquement à :

(i) l'obligation prévue à la partie 1 de la Loi de se présenter au contrôle complémentaire ou à l'enquête, l'exclusion,

...

**JUDGMENT in IMM-3832-22, IMM-3211-22 and IMM-3730-22**

**THIS COURT'S JUDGMENT is as follows:**

1. The judicial review is dismissed.
2. There is no question to certify.

“Negar Azmudeh”

---

Judge

Certified true translation  
Johanna Kratz

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKETS:** IMM-3832-22, IMM-3211-22, IMM-3730-22

**STYLE OF CAUSE:** HERTZIEN LEIRIS NDJABA NGOTTY v MPSEP

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** APRIL 15, 2024

**JUDGMENT AND REASONS:** AZMUDEH J

**DATED:** MAY 10, 2024

**APPEARANCES:**

Rose-Mie Léonard FOR THE APPLICANT

Larissa Foucault FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Rose-Mie Léonard FOR THE APPLICANT  
Cabinet Me Hugues Langlais,  
avocats Inc.  
Montréal, Quebec

Attorney General of Canada FOR THE RESPONDENT  
Montréal, Quebec